IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION No. 359 (M/S) OF 2006

Shri Santanu Kumar Patnaik
S/o Late Kamala Kanta Patnaik
E Type IV- 7, Rajiv Gandhi University
Campus (Formerly Arunachal University)
Doimukh – 791 112 (Arunachal Pradesh)

……..Petitioner.

Versus

Smt. Archana Mathur Patnaik
W/o Sri Santanu Kumar Patnaik
Presently residing at
C/o Mr. Ravindra Nath Mathur
150, Panditwari Phase II Extn.
Dehradun- 248 007. (Uttaranchal)

……. Respondent

12.04.2006

Sri Jakir Hussain, learned counsel for the petitioner.
Ms. Anjana Shahani & Sri Jitendra Chaudhary, Learned for the respondent.

Hon'ble Rajesh Tandon, J.

Heard Sri Jakir Hussain, Learned Counsel for the petitioner and Ms. Anjana Shahni & Jitendra Chaudhary Learned Counsels for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the proceeding of Second Divorce Case No. OS 97/2005 under section 13 and 27 of Hindu Marriage Act pending before the Family Court, Dehradun.

Briefly stated according the case of the petitioner, respondent no. 2 has filed earlier the same petition under section 13 of Hindu Marriage Act before the Court of Dy. Commissioner cum Sessions and District Judge, District Papum Pare, at Yupia, Arunachal Pradesh and the said case has been dismissed on 09.12.2004 in case Misc. (Div) 03/2002 (Fast Track Court Case No. Div 04/2004). The same was dismissed.

The marriage was solemnized on 24.05.1995 between he petitioner and respondent. The respondent filed a divorce petition before the Family Court, Dehradun under Section 13 and 27 of Hindu Marriage Act, against the petitioner seeking divorce.

The petitioner has submitted that Family Court, Dehradun despite the filing of the Order of dismissal of the previous divorce petition file by the respondent in Arunachal Pradesh is proceeding with the hearing of the case.

Considering the aforesaid, it will be open for the petitioner to file the order of previous case and after the exchange of the pleadings, the Family Court shall fix the date for hearing of the case and shall also decide the application fixed by the petitioner.

Subject to the aforesaid observation, writ petition being premature is dismissed at this stage.

(Rajesh Tandon, J.)

12.04.2006
Jain